

## Comment

Only individuals are within the definition of “athlete agent” and therefore required to register under the act. Corporations and other business entities do not come within the definition of “athlete agent” and therefore are not required to register under the act, even though individuals employed by the corporation or other business entity as athlete agents would be required to register. The definition also includes other individuals or “runners” used by an agent to recruit or solicit a student athlete to enter into an agency contract.

The amendment of the definition of athlete agent retains the language of the UAAA which makes an individual who directly or indirectly recruits or solicits a student athlete to enter an agency contract an athlete agent, but expands the definition to include an individual who:

(1) for compensation, procures or attempts to procure employment for a student athlete as a professional athlete;

(2) for compensation or the anticipation of compensation, represents a student athlete as an athlete or advises a student athlete on finances, business ventures, or career management or manages the business affairs of a student athlete; or

(3) in anticipation of representing a student athlete as an athlete, gives consideration to the student athlete or another person.

The term does not include a person who acts solely on behalf of a professional sports team or organization or a licensed, registered, or a certified professional acting within the scope of his or her license, registration, or certification unless the individual also recruits or solicits a student athlete to enter an agency contract or is an individual who, for compensation, procures or attempts to procure employment of a student athlete as a professional athlete or receives consideration for providing the professional services using a different method than for an individual who is not a student athlete.

Under the UAAA, an individual who solicited or recruited a student athlete to enter into an agency contract was an athlete agent. Under that law, individuals licensed as, for example, a financial advisor, are providing services to student athletes for little or no compensation in anticipation of signing the athlete to an agency contract, but are not registering as an athlete agent or otherwise complying with the act. Rather than debate whether the action of a licensed, registered, or certified professional is “recruiting or soliciting” for purposes of the UAAA definition, the definition was revised to remove any ambiguity.

A definition of “educational institution” was added to make clear the act is intended to apply to all educational institutions, whether public or private, and all levels of education.

Recruit or solicit, which is used in the definition of athlete agent, is defined to mean attempting to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, by a parent or guardian of the athlete. The UAAA excluded a spouse, parent, sibling, grandparent, or guardian of a student athlete from the definition of athlete agent. The act was also silent on the issue of coaches and student athletes although a coach who recruited or solicited a student athlete to enter into an agency contract with an athlete agent was technically an athlete agent. The definition of recruit or solicit excludes advice to select a particular athlete

1 agent given in a family, coaching, or social situation unless the advice is given because of the  
2 receipt or anticipated receipt of compensation from the agent. Thus, the parent of a student  
3 athlete who advises the athlete to select a particular agent is not an athlete agent unless the  
4 advice is given in exchange for compensation or the expectation of compensation from the agent.  
5 Similarly, a coach of a student athlete who advises the athlete to select a particular agent is not  
6 an agent unless the advice is given for compensation or the expectation of compensation from  
7 the agent.

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9 The definition of "student athlete" applies to a two-sport athlete who has eligibility  
10 remaining in one sport. For example, an individual who has signed a contract to play  
11 professional basketball is not a student athlete in basketball, but is a student athlete in baseball.  
12 The definition of "student athlete" also includes individuals who are not yet in college. It  
13 includes high school students, high school dropouts and high school graduates who have delayed  
14 matriculation to a college or university so long as the individual may have future eligibility for  
15 intercollegiate sports.

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#### **§ 78C-86. Definitions.**

The following definitions apply in this Article:

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(2) Athlete agent. – An individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.  
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